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TITLE 2. VICTIM COMPENSATION AND GOVERNMENT CLAIMS BOARD
VICTIM COMPENSATION PROGRAM REGULATIONS
Title 2, §§ 647.4, 649.14-649.62

[Notice Published July 23, 2010]

The Victim Compensation and Government Claims Board (Board) proposes to adopt the proposed regulations described below after considering all comments, objections and recommendations regarding the proposed action.

PUBLIC HEARING

The Board has not scheduled a public hearing on this proposed action; however, the Board will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days before the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested individual, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. The written comment period closes at 5:00 p.m. on September 16, 2010. The Board will consider only comments received at the Board's office by that time. Submit written comments to:

Geoff Feusahrens, Regulations Analyst
Victim Compensation and Government Claims Board
400 R Street
Sacramento, CA 95811

Comments may also be submitted by facsimile (FAX) at (916) 491-6439 or by e-mail to regulations@vcgcb.ca.gov.

AUTHORITY AND REFERENCE

Government Code sections 11400.20, 13920 and 13974 authorize the Board to adopt these proposed regulations. The proposed regulations implement, interpret and make specific Government Code sections 13951, 13952, 13953, 13954, 13955, 13956, 13957, 13957.2, 13957.5, 13957.7, 13957.9, 13958, and 13959.

INFORMATIVE DIGEST / POLICY STATEMENT OVERVIEW

The Victim Compensation and Government Claims Board implements the Victim Compensation Program (VCP). The rule-making action proposed the following changes to VCP regulations.

This rule-making action implements legislation effective January 1, 2010, allowing additional relocation benefits for unusual, dire, and exceptional circumstances. The rule-making action also includes several provisions to clarify regulatory language and correct grammar. The rule-making action requires that VCP inform applicants and representatives of the right to a hearing, but eliminates the mandated text for each notice of denials so that the Program can have flexibility to re-write the notice to communicate effectively depending on the needs of applicants.

It also specifies that the eligibility of a minor witness shall not be affected by the eligibility of the victim(s) or derivative victim(s). The rule-making action removes language regarding a person who is eligible as both a victim and a derivative victim that is inconsistent with Government Code sections 13955, 13957(a)(1), and 13957.5.

It revises language stating that, if an applicant files an application within 90 days of the first pecuniary loss, the application is considered good cause timely filed to provide that the time that the applicant discovers that he or she has suffered a pecuniary loss will be considered in determining whether good cause exist to accept a late application.

The rule-making action clarifies that food, clothing, and personal items are only reimbursed as relocation benefits in emergencies. It also addresses newly enacted Government Code section 13957(a)(2)(E)(SB 314), which allows the Board to increase the cash payment or reimbursement for relocation to an amount greater than \$2,000, if the Board finds this amount is appropriate due to the unusual, dire, or exceptional circumstances of a particular claim effective January 1, 2010. It defines what is and is not considered unusual, dire, or exceptional circumstances, the necessary verification when the relocation is based upon the emotional well-being of the applicant or concerns for personal safety, and the requirement that the applicant relocate a minimum number of miles from the crime if they are the victim of on-going threats or retaliation.

The rule-making action codifies the Board's interpretation of its statutes and current practices and provides guidance regarding compensation for home security and the purchase of vehicles.

The VCP has accepted CMS 1450, CMS 1500, and American Dental Association bill forms for the convenience of the applicants. The rule-making action identifies commonly used billing forms and specifies that VCP may require the use of the form.

Government Code section 13957.9 authorizes the Board to enter into agreements with a qualified non-profit agency that utilizes the Restitution Fund at a significant level on a regular and constant basis. The rule-making action raises the minimum level of utilization of reimbursement from the Restitution Fund from \$10,000 to \$100,000 during the previous fiscal

year for mental health services in order for a qualified provider to have an agreement with the Board.

The rule-making action clarifies that VCP may only reimburse income loss for the statutory time period, even if the victim has had breaks in the disability period or received reimbursement from other sources for portions of the disability period. It also clarifies the language regarding the legal dependency of minors for the purposes of income and support loss.

It includes revisions to the regulations governing reimbursable sources, human trafficking, participation in the crime, and mitigation of involvement in the events leading up to the qualifying crime for consistency with the governing statutes and clarity.

It allows VCP staff to deny an application or supplemental claim for lack of cooperation with the Board or VCP staff when the applicant does not apply for benefits from other sources including, but not limited to, workers' compensation, state disability insurance, Social Security benefits, and unemployment insurance.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Board has made the following initial determinations:

Mandate on local agencies and school districts: None

Cost or savings to any state agency: None

Cost to any local agency or school district which must be reimbursed in accordance with Government Code Sections 17500 through 17630: None

Other nondiscretionary cost or savings imposed on local agencies: None

Cost or savings in federal funding to the state: None

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None

Cost impacts on a representative private individual or business: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Adoption of these regulations will not:

- (1) create or eliminate jobs within California;
- (2) create new businesses or eliminate existing businesses within California; or
- (3) affect the expansion of businesses currently doing business within California.

Significant effect on housing costs: None

SMALL BUSINESS DETERMINATION

The Board has determined that the proposed regulations do not affect small businesses because the regulations only apply to individuals who apply to the VCP.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private individuals than the proposed action.

The Board invites interested individuals to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

CONTACT PERSON

Inquiries concerning the proposed administrative action may be directed to:

Geoff Feusahrens
Victim Compensation and Government Claims Board
400 R Street
Sacramento, CA 95811
Telephone: (916) 491-3863

The backup contact person for these inquiries is:

Roslyn Mack
Victim Compensation and Government Claims Board
400 R Street
Sacramento, CA 95811
Telephone: (916) 491-3605

Please direct requests for copies of the proposed text of the regulations, the Initial Statement of Reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based to Geoff Feusahrens at the above address.

AVAILABILITY OF STATEMENT OF REASONS, TEXT PROPOSED REGULATIONS AND RULEMAKING FILE

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations and the Initial Statement of Reasons. Copies may be obtained by contacting Geoff Feusahrens at the address or phone number listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing, if requested, and considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If the Board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text available to the public at least 15 days before the Board adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Geoff Feusahrens at the address indicated above. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Geoff Feusahrens at the above address.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Rulemaking, the Initial Statement of Reasons and the text of the regulations in underline and strikeout can be accessed through our website at www.vcgcb.ca.gov.

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